



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Koichi SATO Confirmation No.: 1314  
Serial No : 09/824,248 Examiner: B. J. Jelinek  
Filed : April 3, 2001 Group Art Unit: 2622  
For : CONTINUAL-IMAGE PROCESSING DEVICE

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop AF  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

In response to the Final Official Action dated February 27, 2006, in which a three-month shortened statutory period for response was set to expire on May 30, 2006 (May 27, 2006 falling on a Saturday and May 29, 2006 falling on a Federal holiday), a Notice of Appeal being filed concurrently herewith, Applicant requests a Pre-Appeal Brief Panel to review and withdraw the rejection set forth in the outstanding Final Official Action.

**REMARKS**

In the Final Official Action, claims 9-10 and 12-16 were rejected under 35 U.S.C. §103(a) over ANDERSON (U.S. Patent No. 6,169,575) in view of SHIOJI (U.S. Patent No. 6,466,264). Applicant traverses this rejection.

The object of ANDERSON is to provide "easily identifiable image groups of related images, including user-created groups". However, none of the proposed

modifications to ANDERSON would contribute to this objective. Further, the Examiner has not cited any proper motivation in the prior art to perform each of the numerous modifications to ANDERSON that are acknowledged to be necessary to obtain the combinations recited in the pending claims. Accordingly, the only motivation to modify ANDERSON in the manner necessary to obtain the pending claims is the improper motivation to obtain the pending claims in hindsight.

Further, claim 9 is directed to features relating to a "continual still image photographing operation in which the plurality of discrete images are taken at an interval time set by an operator". The rejection of claim 9 does not reflect true and proper consideration of the above-noted features, as should be evident from the incorrect assertion in the Advisory Action dated May 17, 2006, that

*"the concept of a motion signal comprising a timed sequence of frame images is directly analogous to a continual still image photographing operation comprising a plurality of discrete images taken at an interval"* (emphasis added).

As explained below, a motion image is not the same as or analogous to a still image, and the documents applied in the Final Official Action themselves recognize the distinction between the two. Thus, the rejection of claim 9 is not based on either the features recited in claim 9 or the teachings of the documents applied in the rejection; rather, the rejection of claim 9 relies on an interpretation by the Examiner which ignores both the meaning of the features recited in claim 9 as well as the teachings of the documents applied in the rejection.

The Final Official Action acknowledges at page 3 that ANDERSON does not

disclose features in claim 9 which relate to the above-noted "continual still image photographing operation". However, the Final Official Action asserts at pages 3-4 that SHIOJI discloses the features which are acknowledged to be absent from ANDERSON. The Final Official Action cites col. 1, lines 1-5; col. 3, lines 28-66; and FIG. 10, S61 of SHIOJI as disclosing those features of claim 9 which the Final Official Action acknowledges are not disclosed by ANDERSON. The above-noted assertions of the Final Official Action with respect to the teachings of SHIOJI are erroneous.

Differing frame rates in SHIOJI are discussed in the context of a "motion image signal" and not for "a continual still image photographing operation". Further, SHIOJI explicitly distinguishes between still image signals and motion image signals, but does not disclose "a continual still image photographing operation in which the plurality of discrete images are taken at an interval time set by an operator" or the related features recited in the pending claims. Accordingly, the proposed combination would not result in the features recited in the pending claims. Further, the Final Official Action acknowledges the above-noted distinction between "still image" signals and "motion image" signals in the paragraph bridging pages 3-4 in SHIOJI, but still misinterprets features which relate to the "motion image signals" in SHIOJI as somehow disclosing the features relating to the "continual still image photographing operation" recited in claim 9.

SHIOJI clearly distinguishes between motion image signals and still image signals. For example, SHIOJI discloses, at col. 5, lines 9-12, that for "motion-image

frame rate, two modes are provided, i.e., 30 fps to form 1 second of motion image with 30 still image frames, and 15 fps to form 1 second of motion image with 15 still image frames". Further, Fig. 5 shows a "STILL IMAGE RECORD PROCESSING" at S7 (detailed in Figs. 6-7) and a "MOTION IMAGE RECORD PROCESS" at S9 (detailed in Figs. 8-9), whereas Fig. 10 shows a "STILL IMAGE REPRODUCE PROCESSING" at S63 (detailed in Figs. 11-12) and a "MOTION IMAGE REPRODUCE PROCESSING" at S65 (detailed in Figs. 13-14). Accordingly, the first "motion image signal having the first frame rate" and the "second motion image signal having a different second frame rate from the first frame rate" as described at col. 3, lines 28-67 in SHIOJI, do not disclose and are not related to a "continual still image photographing operation" as recited in claim 9. Further, the "first motion image signal having the first frame rate" and the "second motion image signal having a different second frame rate from the first frame rate" as described at col. 3, lines 28-67 in SHIOJI, do not disclose and are not related to a "memory", a "determination processor" or an "image processor" as recited in claim 9.

Further, there is no disclosure whatsoever in SHIOJI that an operator would select a frame rate for any operation related to obtaining still images, let alone for "a continual still image photographing operation in which the plurality of discrete images are taken at an interval time set by an operator" as recited in claim 9. Therefore, even if "the frame rate information is a unique indicator", as asserted by the Examiner, the assertion that this information indicates "that a plurality of discrete images are obtained

in a continual still image photography" is demonstrably false.

Accordingly, even the combination of ANDERSON and SHIOJI would not result in the combination of features recited in claim 9. Further, even the combination of ANDERSON and SHIOJI would not result in the combination of features recited in claim 15, at least for reasons similar to those set forth above with respect to the combination of features recited in claim 9.

#### CONCLUSION

Therefore, the rejection of independent claims 9 and 15 is improper, and claims 9 and 15 are allowable, at least for each and all of the reasons set forth above. Further, each of claims 10, 12-14 and 16 is allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations. Accordingly, reconsideration and withdrawal of the rejection of claims 9-10 and 12-16 is requested.

Should there be any questions regarding this Response or the present application, the undersigned may be contacted at the below-listed number.

Respectfully submitted,  
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